

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: John Butler	Team: Squad #5	CCRB Case #: 201507230	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/22/2015 7:30 PM	Location of Incident: Beach 86th Street and Rockaway Beach Boulevard	Precinct: 100	18 Mo. SOL 2/22/2017	EO SOL 2/22/2017	
Date/Time CV Reported Thu, 08/27/2015 9:16 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 08/27/2015 9:16 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Timothy Terrillion	16714	952286	100 PCT
2. POM Charles Volante	14858	956322	100 PCT
3. SGT Darryl Knight	3789	947787	100 PCT
4. LT David Cordano	00000	938262	100 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Ryan Pretty	06268	944908	100 PCT
2. An officer			100 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Timothy Terrillion	Abuse: PO Timothy Terrillion stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.SGT Darryl Knight	Abuse: Sgt. Darryl Knight stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Timothy Terrillion	Abuse: PO Timothy Terrillion refused to provide his shield number to § 87(2)(b)	
D.LT David Cordano	Abuse: Lt. David Cordano searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
E.SGT Darryl Knight	Discourtesy: Sgt. Darryl Knight spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

## Case Summary

§ 87(2)(b) filed this complaint with the CCRB via phone on August 27, 2015, on behalf of himself and his friends, § 87(2)(b) and § 87(2)(b).

On August 22, 2015, at approximately 7:30 p.m., § 87(2)(b) and § 87(2)(b) rode in § 87(2)(b) rental car from a barber shop on Rockaway Beach Boulevard to the corner of Rockaway Beach Boulevard and Beach 86<sup>th</sup> Street in Queens. PO Timothy Terrillion and Sgt. Darryl Knight of the 100<sup>th</sup> Precinct stopped the civilians' vehicle as they turned left onto Beach 86<sup>th</sup> Street (**Allegation A and B**). Lt. David Cordano, PO Charles Volante, PO Ryan Pretty and a fourth unidentified officer from the 100<sup>th</sup> Precinct arrived on the scene immediately after the car stop. PO Terrillion arrested § 87(2)(b) for § 87(2)(b) and escorted him to his police vehicle during which time PO Terrillion allegedly refused to provide his shield number to § 87(2)(b) upon request (**Allegation C**). Lt. Cordano then informed § 87(2)(b) that he had a bench warrant for his arrest, and Lt. Cordano told § 87(2)(b) that he could be placed under arrest pursuant to this warrant if § 87(2)(b) did not allow the officers to search his vehicle. § 87(2)(b) then provided consent for the officers to search the vehicle to avoid being arrested, and Sgt. Knight, PO Terrillion, PO Volante, and Lt. Cordano entered the car and searched it (**Allegation D**). Following this search, § 87(2)(b) asked Sgt. Knight why § 87(2)(b) was being arrested, and Sgt. Knight allegedly told § 87(2)(b) to "get the fuck out of here" (**Allegation E**). The officers then left the scene with § 87(2)(b) under arrest and did not arrest or issue a summons to any of the other civilians (Board Review 01-04).

There is no video footage or audio recording of this incident.

## Mediation, Civil and Criminal Histories

This case was unsuitable for mediation due to § 87(2)(b)'s arrest and stated intention to file a lawsuit. As of November 7, 2015, none of the civilians in this case have filed a notice of claim with the City of New York (Board Review 10).

**[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]**

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CCRB Case # 201507230

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian and Officer CCRB Histories**

This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (Board Review 15).

Lt. Cordano has been a member of the NYPD for 10 years § 87(2)(b)

Sgt. Knight has been a member of the NYPD for seven years and has been the subject of two prior CCRB complaints involving allegations of failure to prepare a memo book entry and physical force, respectively. Sgt. Knight has no substantiated allegations, § 87(2)(g)

This is PO Terrillion's first CCRB complaint in his three year tenure as an NYPD officer, and this is PO Volante's first CCRB complaint in his one year tenure as an NYPD officer.

### **Potential Issues**

§ 87(2)(b) was interviewed via telephone because he resides in North Carolina. A verification form was sent to § 87(2)(b) via mail and email, and § 87(2)(b) confirmed receipt of the form and stated that he would return a signed and notarized copy to the CCRB. However, § 87(2)(b) did not return the verification form to the CCRB.

§ 87(2)(b) provided a brief statement via phone but was not interviewed. § 87(2)(b) missed one interview appointment and failed to respond to seven additional calls, one missed appointment letter, and two please call letters.

Unidentified civilians at a barbeque near the incident location may have witnessed the incident. Neither the civilians nor the officers could identify any of these potential witnesses.

One witness officer in this case was unidentified. The civilians alleged that PO Pretty and an unidentified male officer responded to the scene shortly after the initial car stop. According to the civilians, these officers were only present to transport § 87(2)(b) to the stationhouse and did not interact with any of the other civilians during the stop. PO Pretty denied being present during the incident, and his assigned partner was PO Valerie Shepherd, who is a black female and does not match the civilians' description of a white male officer (Board Review 09).

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

The civilians alleged that PO Terrillion, Sgt. Knight, Lt. Cordano, and PO Volante stopped their vehicle and exited from the same black Chevy Impala. Based on officer testimony and police documentation, the investigation determined that PO Terrillion and Sgt. Knight were the only officers involved in the initial stop and that Lt. Cordano and PO Volante arrived on the scene shortly thereafter. Lt. Cordano and PO Volante were assigned to a different black Chevy Impala from PO Terrillion and Sgt. Knight on the date of the incident, and they were consistent in that they arrived on the scene almost immediately after the stop. § 87(2)(g)

§ 87(2)(g)

The civilians also alleged that all four of the officers searched the vehicle. Lt. Cordano was the only officer to acknowledge this vehicle search, and he could not identify any of the officers involved in the search. § 87(2)(g)

**Allegation A – Abuse of Authority: PO Timothy Terrillion stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation B –Abuse of Authority: Sgt. Darryl Knight stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

It is undisputed that Sgt. Knight and PO Terrillion stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants (Board Review 01-09).

According to the civilians, § 87(2)(b) and § 87(2)(b) met § 87(2)(b) at a barber shop near Beach 86<sup>th</sup> Street and Rockaway Beach Boulevard in Queens prior to the incident (Board Review 01-04). § 87(2)(g) § 87(2)(b) stated that all of the civilians rode in his rental car to the barber shop. § 87(2)(b) stated that he and § 87(2)(b) walked together to the barber shop from a nearby Popeye’s restaurant, but § 87(2)(b) stated that he walked alone to the barber shop from the Dayton Co-op houses approximately two blocks away. After § 87(2)(b) finished his haircut, all four civilians walked to a nearby liquor store on Rockaway Beach Boulevard, and they purchased a bottle of Hennessy. They then entered § 87(2)(b) rental car, which was parked near the corner of Beach 86<sup>th</sup> Street and Rockaway Beach Boulevard. § 87(2)(b) drove the car; § 87(2)(b) sat in the front passenger’s seat; § 87(2)(b) sat in behind the driver’s seat; and § 87(2)(b) sat behind the front passenger’s seat. The civilians placed the bottle of Hennessy on the backseat of the car between § 87(2)(b) and § 87(2)(b). § 87(2)(g) § 87(2)(b) and § 87(2)(b) did not have a clear destination in mind and intended to go somewhere in Brooklyn, and § 87(2)(b) intended to go to a block party on the grounds of the nearby Hammel NYCHA development on the corner of Beach 86<sup>th</sup> Street and Rockaway Beach Boulevard.

§ 87(2)(b) drove down Rockaway Beach Boulevard and turned left onto Beach 86<sup>th</sup> Street at which point PO Terrillion and Sgt. Knight immediately stopped the civilians by activating the lights and sirens of their police vehicle. Lt. Cordano and PO Volante arrived on the scene shortly after the initial stop, and PO Terrillion arrived at approximately the same time with his unidentified partner. The stop occurred on the street bordering the Hammel NYHCA development, and there was a barbeque involving approximately 15-20 unidentified civilians on the NYCHA grounds next to the car stop. These unidentified civilians stood 15-20 feet away from the car stop and asked the officers to explain the reasons for the stop during the incident.

Lt. Cordano approached the front driver’s side of the car; PO Terrillion approached the back driver’s side of the car; Sgt. Knight approached the front passenger’s side of the car; and PO Volante approached the back passenger’s side of the car. PO Pretty and his partner did not approach the car. Lt. Cordano took § 87(2)(b) license and registration, and he informed § 87(2)(b) that the officers stopped the car because § 87(2)(b) failed to signal. Lt. Cordano asked, “What’s that?” in reference to the bottle of Hennessy in the backseat. The civilians told him that it

was a bottle of Hennessy, and § 87(2)(b) provided the bottle to Lt. Cordano, who inspected it and then returned it to § 87(2)(b). The officers then walked back to their vehicles and returned a short time later. At this time, Lt. Cordano informed § 87(2)(b) that he and § 87(2)(b) had warrants for their arrests. Lt. Cordano then instructed § 87(2)(b) to exit the vehicle, and PO Terrillion told § 87(2)(b) to exit the car. PO Terrillion handcuffed § 87(2)(b) and placed him under arrest for § 87(2)(b).

According to PO Terrillion and Sgt. Knight, they first observed § 87(2)(b) while on patrol near the Hammel housing development (Board Review 05-06). The officers stated that they observed § 87(2)(b) on NYCHA property with § 87(2)(b) and § 87(2)(b) and they observed the civilians walk toward a vehicle parked on Rockaway Beach Boulevard. When the officers first observed the civilians, PO Terrillion stated that they stood on the grounds of the Hammel development approximately 15-20 feet away from § 87(2)(b). Sgt. Knight did not recall whether he and PO Terrillion were on foot or in their vehicle at the time of their observation, and he did not recall how far away from § 87(2)(b) they were at the time.

PO Terrillion and Sgt. Knight recognized § 87(2)(b) from his extensive criminal history. § 87(2)(e), § 87(2)(g)

§ 87(2)(b) The officers also knew that § 87(2)(b) had an active NYCHA trespass affidavit, which prevented him from being present on NYCHA property and allowed officers to arrest him on sight should they observe him to be in violation of this affidavit. This trespass affidavit was also posted on the wall of the stationhouse, and the officers were familiar with the document from observing it prior to the incident in the stationhouse. Police documentation confirmed that § 87(2)(b) had an active NYCHA trespass affidavit prior to the incident, § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)] (Board Review 11 and 16-17).

PO Terrillion and Sgt. Knight reached an implicit understanding that they would arrest § 87(2)(b) for trespassing. PO Terrillion stated that the officers then walked approximately 15-20 feet behind § 87(2)(b) and the other civilians while the civilians walked toward the street. The officers did not say anything to § 87(2)(b) as they followed him. The officers observed § 87(2)(b) and § 87(2)(b) enter a red sedan parked on Rockaway Beach Boulevard, and they immediately walked to their vehicle with intention of stopping the car to arrest § 87(2)(b) for § 87(2)(b). Sgt. Knight did not recall any actions that the officers took prior to the car stop but stated that they did not stop § 87(2)(b) prior to him entering the car because they did not have any opportunity to do so.

With PO Terrillion driving, the officers followed the civilians as they drove toward Beach 86<sup>th</sup> Street, and the officers stopped the car as soon as it turned right onto Beach 86<sup>th</sup> Street. Sgt. Knight stated that the officers stopped the vehicle in order to arrest § 87(2)(b) for § 87(2)(b) and he stated that there was no other reason for the stop. PO Terrillion stated that he observed the civilians fail to signal upon turning onto Beach 86<sup>th</sup> Street and stated that he stopped the car to arrest § 87(2)(b) for § 87(2)(b) and because § 87(2)(b) failed to signal. Sgt. Knight did not recall seeing the civilians commit any traffic infraction. Lt. Cordano and PO Volante observed the car stop after PO Terrillion and Sgt. Knight stopped the car on Beach 86<sup>th</sup> Street, and they immediately responded to the scene (Board Review 07-08). All of the officers confirmed the existence of the nearby barbeque but provided varying estimates of the number of people involved.

PO Terrillion stated that he obtained § 87(2)(b) license and registration immediately upon approaching the vehicle with the other officers. PO Terrillion then instructed the civilians to exit the vehicle, and he placed § 87(2)(b) under arrest for § 87(2)(b). Lt. Cordano acknowledged that PO Terrillion and Sgt. Knight informed him about the bottle of Hennessy in the vehicle. Lt. Cordano stated that he obtained § 87(2)(b) license and registration at some point during the incident, but he did not recall from whom he obtained this documentation. Lt. Cordano acknowledged conducting a warrant check for § 87(2)(b) and he stated that it “might have been possible” that he discovered an active warrant for him. Lt. Cordano denied discussing this possible warrant with § 87(2)(b) and he did not witness any other officer do so. Sgt. Knight, PO Terrillion, and PO Volante were unaware of whether any officer conducted a warrant check for § 87(2)(b) or discussed such a warrant with § 87(2)(b). PO Terrillion did not issue a summons to § 87(2)(b) for his failure to signal based upon his discretion.

The legality of a search and seizure must be determined based on “whether an officer’s action was justified at its inception and whether it was reasonably related in scope to the circumstances which justified the interference in the first place.” Terry v. Ohio, 392 U.S. 1(1968); Illinois v. Caballes, 543 U.S.405 (2005). A person may not be stopped solely because he or she is in the company of another whom the police have probable cause to arrest. People v. McLoyd, 35 Misc. 3d 822 (2012) (Board Review 18-20).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Abuse of Authority: PO Timothy Terrillion refused to provide his shield number to § 87(2)(b)**

According to the civilians, PO Terrillion placed § 87(2)(b) in his police vehicle after placing him in handcuffs (Board Review 01-03). § 87(2)(b) alleged that he requested PO Terrillion's shield number when he was placed into the car, but PO Terrillion ignored him. § 87(2)(b) never obtained PO Terrillion's shield number. None of the other civilians witnessed this interaction because they remained near § 87(2)(b) vehicle while PO Terrillion and § 87(2)(b) walked to the car. PO Terrillion denied this allegation, and none of the other officers witnessed any such incident (Board Review 05-09).

§ 87(2)(g)

**Allegation D – Abuse of Authority: Lt. David Cordano searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

According to § 87(2)(b) Lt. Cordano instructed him to exit the vehicle and walk to the front of the car after informing him of his active warrant (Board Review 01-03). PO Terrillion led § 87(2)(b) to the police vehicle while § 87(2)(b) complied with this order, and § 87(2)(b) and § 87(2)(b) remained inside the car at this time. § 87(2)(b) asked Lt. Cordano whether his warrant gave the officers the authority to search his car, and Lt. Cordano told him that it did. § 87(2)(b) told Lt. Cordano that he did not consent to a search of his vehicle, and Lt. Cordano told § 87(2)(b) that he could be arrested on his warrant or allow the officers to search the car. § 87(2)(b) then told the officers that they could search the car because he did not want to be arrested. At this time, Sgt. Knight and PO Volante instructed § 87(2)(b) and § 87(2)(b) to exit the vehicle. Lt. Cordano, Sgt. Knight, PO Terrillion, and PO Volante then entered and searched the car. The officers searched the back seats, front seats, and side compartments, and they opened the glove compartment and center console and searched inside these compartments. The officers searched the vehicle for approximately five to ten minutes and did not find any contraband.

§ 87(2)(b) did not hear § 87(2)(b) conversation with Lt. Cordano because he was inside the car at the time, but he was consistent with § 87(2)(b) in describing the vehicle search (Board Review 03). Prior to the vehicle search, § 87(2)(b) was placed in PO Pretty's vehicle and transported to the 100<sup>th</sup> Precinct stationhouse. As such, § 87(2)(b) did not witness the vehicle search (Board Review 01).

Lt. Cordano acknowledged conducting a warrant check for § 87(2)(b) and he stated that "it might have been possible" that he discovered an active warrant (Board Review 08). Lt. Cordano denied discussing this possible warrant with § 87(2)(b) and he did not witness any other officer do so. Lt. Cordano stated that he did not arrest § 87(2)(b) on this possible warrant because he was concerned that the nearby crowd at the barbeque posed a dangerous situation, and

Lt. Cordano wanted to leave the scene as quickly as possible given the presence of this possible danger. PO Volante and PO Terrillion were unaware of any conversation between any officer and § 87(2)(b) regarding his possible warrant, and Sgt. Knight did not recall any such conversation (Board Review 05-07). Police documentation confirmed the existence of an active bench warrant for § 87(2)(b) for an open container violation (Board Review 21).

Lt. Cordano initially denied that any of the officers entered the vehicle. He then stated that he was “pretty sure” that officers entered the backseat of the car and searched the “immediate lungable area” near where § 87(2)(b) sat. Lt. Cordano could not specify exactly which areas of the car beyond the backseat were searched. Lt. Cordano could not specify which officers searched the car, and he denied participating in the search. Lt. Cordano stated that the officers searched the car “because it was routine” and “because it just gets done.”

PO Volante denied searching the car. When asked whether he saw any other officer search the car, PO Volante stated that he “did not remember specifics.” When asked to explain this statement, PO Volante stated that he “did not think” he saw any officer search the car and was unable to provide any further information on the subject. Sgt. Knight and PO Terrillion denied searching the car, and they stated that they did not see any other officer do so.

Police officers may search a vehicle upon gaining voluntary consent to search, and “the question of whether consent is voluntary...must be evaluated in light of the totality of the circumstances.” Two primary factors used to determine the voluntariness of consent are (1) whether the accused was in custody when consent was given and (2) whether the accused knew he or she could refuse to consent to a search. People v. Keesler, 16 Misc. 3d 45 (2007). Under the automobile exception to the warrant requirement, officers can conduct a vehicle search without a warrant if they had probable cause to believe it contained evidence of a crime or contraband. People v. Galak, 81 N.Y.2d 463 (1993) (Board Review 22-23).

§ 87(2)(g)

[REDACTED]

**Allegation E: Discourtesy: Sgt. Darryl Knight spoke discourteously to § 87(2)(b)**



§ 87(2)(b) alleged that he asked Sgt. Knight why § 87(2)(b) was being placed under arrest while standing outside of the car (Board Review 03). In reply, Sgt. Knight told him that he could go to the stationhouse to obtain any information on § 87(2)(b) and then allegedly said, “Get the fuck out of here.” The officers then left the scene. § 87(2)(b) and § 87(2)(b) were not present for this conversation and did not witness it. § 87(2)(b) was speaking with Lt. Cordano at the time, and § 87(2)(b) was en route to the 100<sup>th</sup> Precinct stationhouse. Sgt. Knight denied § 87(2)(b) allegation, and none of the other officers heard Sgt. Knight make such a statement (Board Review 05-09). All of the officers denied that any officer used profanity during the incident.

§ 87(2)(g)  
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§ 87(4-b), § 87(2)(g)  
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Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Pod Leader: \_\_\_\_\_  
Title/Signature Print Date

Attorney: \_\_\_\_\_  
Title/Signature Print Date